IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF VIRGINIA ROANOKE DIVISION

BRANDON S. LAMBERT,)	
Plaintiff,)	Case No. 7:20CV00001
v.)	OPINION
)	By: James P. Jones
MIDDLE RIVER REGIONAL JAIL,)	United States District Judge
)	
Defendant.)	

Brandon S. Lambert, Pro Se Plaintiff.

The plaintiff, a Virginia inmate proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983, alleging that an officer at a local jail used excessive force against him. After review of the record, I conclude that the action must be summarily dismissed.

Under 42 U.S.C. § 1997e(c)(1), the court may dismiss a prisoner's civil action concerning prison conditions "if the court is satisfied that the action is frivolous, malicious, [or] fails to state a claim upon which relief can be granted." A frivolous claim is one that "lacks an arguable basis either in law or in fact." *Neitzke v. Williams*, 490 U.S. 319, 325 (1989) (interpreting "frivolous" in former version of 28 U.S.C. § 1915(d)).

To state a cause of action under §1983, a plaintiff must establish that he has

been deprived of rights guaranteed by the Constitution or laws of the United States

and that this deprivation resulted from conduct committed by a person acting under

color of state law. West v. Atkins, 487 U.S. 42, 48 (1988). The only entity that

Lambert names as a defendant in this case is the jail itself. The jail, however, is not

a person subject to suit under § 1983. McCoy v. Chesapeake Corr. Ctr., 788 F. Supp.

890, 893-94 (E.D. Va. 1992).

Because Lambert's complaint presents no legal basis for a claim actionable

under § 1983 against the only defendant he has named, the court will summarily

dismiss this action without prejudice under § 1997e(c)(1) as frivolous.¹

A separate Order will be entered herewith.

DATED: February 3, 2020

/s/ JAMES P. JONES

United States District Judge

¹ I note that Lambert also filed a nearly identical § 1983 complaint naming a jail official, Sergeant Walter L. Thomas, as the defendant who allegedly used excessive force against Lambert. Lambert v. Thomas, 7:20CV00002. Because Thomas is a person who can be sued under § 1983, I will direct the clerk to attempt service of the complaint in that case on Thomas.

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